



STATE OF CALIFORNIA

**STATE BOARD OF EQUALIZATION**

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Executive Director

October 23, 1998

TO COUNTY ASSESSORS,  
COUNTY COUNSELS, AND  
OTHER INTERESTED PARTIES:

No. 98/53

**NOTICE OF PROPOSED REGULATORY ACTION  
BY THE  
STATE BOARD OF EQUALIZATION**

**AMEND PROPERTY TAX RULE 462.180 CHANGE IN OWNERSHIP - LEGAL ENTITIES.  
PUBLIC HEARING: DECEMBER 9, 1998 AT 1:30 P.M.**

**NOTICE IS HEREBY GIVEN:**

The State Board of Equalization, pursuant to the authority vested in the Board by Section 15606 (c) of the Government Code proposes to amend Regulation section 462.180 in Title 18, Division 1 of the California Code of Regulations. A public hearing on the proposed regulation will be held in Room 121, 450 N Street, Sacramento, at 1:30 p.m., or as soon thereafter as the matter may be heard, on December 9, 1998. Any person interested may present statements or arguments orally at that time and place. Written statements or arguments will be considered by the Board if received by December 9, 1998.

**INFORMATIVE DIGEST**

The proposed changes clarify existing statutory change in ownership provisions by adding explanatory language, making more specific references to various aspects of legal entity transfers and importing legal entity concepts from the Corporations Code.

The express terms of the proposed action, written in plain English, are available from the agency contact person named in this notice.

**COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS**

The State Board of Equalization has determined that the proposed amendment of Rule 462.180 does not impose a mandate on local agencies or school districts. Further, the Board has determined that the amendment will result in no additional direct or indirect costs to any State agency or any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code, and that there are no other non-discretionary costs or savings imposed on local agencies, or cost or savings in Federal funding to the State of California.

### EFFECT ON BUSINESS

Pursuant to Government Code Section 11346.53(c), the Board of Equalization finds that the amendment Rule 462.180 will not have a significant adverse economic impact on business, because the amendments only clarify existing statutory interpretations.

The amendment of this regulation will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses nor create or expand business in the State of California.

The amendment of the regulation as proposed will not be detrimental to California businesses in competing with businesses in other states.

The proposed amendment of the regulation will not affect small business because the amendments only clarify existing statutory interpretations.

### ADVERSE ECONOMIC IMPACT ON PRIVATE PERSONS/BUSINESSES

There will be no adverse economic impact on private businesses or persons because the proposed amendments only clarify existing statutory interpretations.

### FEDERAL REGULATIONS

Rule 462.180 has no comparable Federal regulations.

### AUTHORITY

Government Code Section 15606, subdivision (c).

### REFERENCE

Revenue and Taxation Code Sections 60, 61, 62, 63, 64, and 67; Corporations Code Sections 16909 and 17554; Health and Safety Code Section 34605.

### CONTACT

Questions regarding the content of the proposed regulations should be directed to: Mr. Louis Ambrose, Tax Counsel, at P.O. Box 942879, 450 N Street, MIC:82, Sacramento, CA 94279-0082. Telephone: (916) 445-5580 FAX (916) 323-3387.

Coordinator, (916) 322-9569, and P. O. Box 942879, 450 N Street, MIC:80, Sacramento, CA 94279-0080.

ALTERNATIVES CONSIDERED

The Board must determine that no alternative considered would be more effective in carrying out the purpose for which this action is proposed or be as effective and less burdensome to affected private persons than the proposed action.

AVAILABILITY OF STATEMENT OF REASONS AND OF TEXT OF PROPOSED REGULATIONS

The Board has prepared a statement of reasons and strike-out versions of the proposed amendments. Those documents and all information on which the proposal is based are available to the public upon request. The Rulemaking file is available for public inspection at 450 N Street, Sacramento, California. Requests for copies should be addressed to Ms. Mary Ann Stumpf, Regulations Coordinator, (916) 322-9569, at P. O. Box 942879, 450 N Street, MIC:80, Sacramento, CA 94279-0080.

ADDITIONAL COMMENTS

Following the hearing, the State Board of Equalization may in accordance with law adopt the proposed regulation if the text remains substantially the same as described in the text originally made available to the public. If the State Board of Equalization makes modifications which are substantially related to the originally proposed text, the Board will make the modified text, with the changes clearly indicated, available to the public for fifteen days before adoption of the regulation. The text of any modified regulation will be mailed to those interested parties who commented on the proposed regulatory action orally or in writing or who asked to be informed of such changes. The modified regulation will be available to the public from Ms. Stumpf. The State Board of Equalization will consider written comments on the modified regulation for fifteen days after the date on which the modified regulation is made available to the public.

Dated: October 6, 1998

STATE BOARD OF EQUALIZATION



Janice Masterton, Chief  
Board Proceedings Division

**Rule 462.180 CHANGE IN OWNERSHIP -- LEGAL ENTITIES.**

**(a) Transfers of Real Property to and by Legal Entities.**

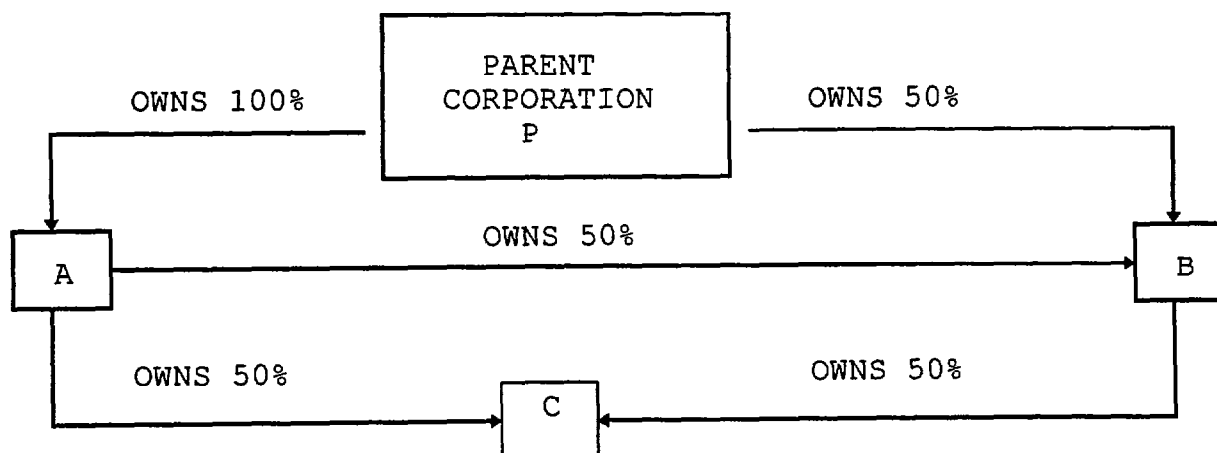
~~Except as otherwise provided in subdivision (b), the General Rule.~~ The transfer of any interest in real property to a corporation, partnership, limited liability company, or other legal entity is a change in ownership of ~~such~~ the real property interest transferred. For purposes of this rule, "real property" or "interests in real property" includes real property interests and fractional interests thereof, the transfer of which constitute a change in ownership under Sections 60 and following applicable sections of the Revenue and Taxation Code and under the applicable change in ownership provisions of the Property Tax Rules.

**(b) ~~Exclusions~~ EXCEPTIONS.** The following transfers do not constitute changes in ownership of the real property:

(1) Affiliated Corporation Transfers. Transfers of real property between or among affiliated corporations, including those made to achieve a corporate reorganization if:

(A) the voting stock of the corporation making the transfer and the voting stock of the transferee corporation are each owned 100 percent by a one or more corporations related by voting stock ownership to a common parent, and

(B) the common parent corporation owns directly 100 percent of the voting stock of at least one corporation in the chain(s) of related corporations.



A transfer of real property by P, A, B, or C to any of the other three corporations would not be a change in ownership.

Example 1: A Any transfer by C (wholly owned by A and B) to B (wholly owned by A and P) would not be a change in ownership because of those relationships and because P owns 100% of A.

If real property is transferred between non-affiliated corporations, only the property transferred ~~or the property of the acquired corporation~~ shall be deemed to have undergone a change in ownership.

(2) Proportional Transfers of Real Property. Transfers of real property between separate legal entities or by an individual~~(s)~~ to a legal entity (or vice versa), which results solely in a change in the method of holding title and in which the proportional ownership interests ~~in the property in each and every piece of real property~~ transferred remain the same after the transfer. (The holders of the ownership interests in the transferee legal entity, whether such interests are represented by stock, partnership ~~shares~~ interests, or other types of ownership interests, shall be defined as "original co-owners" for purposes of determining whether a change in ownership has occurred upon the subsequent transfer~~(s)~~ of the ownership interests in the legal entity.) This subdivision shall not apply to a transfer of real property which is also excluded from change in ownership pursuant to subdivision (b) (1) (transfers between or among affiliated corporations.

Examples of Transfers of Real Property in Legal Entities:

~~(A)~~ Example 2: A transfer of real property from A and B, as equal co-tenants, to Corporation X, where A and B each take back 50 percent of the stock. No change in ownership. However, if A and B each take back 49 percent of the stock and C receives 2 percent of the stock then there will be a change in ownership of the entire property.

~~(B) Same as (A) above, except A and B take back 49 percent of the stock and C receives 2 percent of the stock. Change in ownership of the entire property.~~

~~(C)~~ Example 3: A transfers Whiteacre to Corporation X and B transfers Blackacre (equal in value to Whiteacre) to Corporation X. A and B each take back 50 percent of the stock. Change in ownership of 100 percent of both Whiteacre and Blackacre.

~~(D)~~ Example 4: Corporation X owns Blackacre and Whiteacre (both are of equal value). A and B each own 50 percent of Corporation X's shares. X transfers Whiteacre to A and Blackacre to B. Change in ownership of 100 percent of both Blackacre and Whiteacre. However, if Corporation X transfers Whiteacre and Blackacre to both A and B as joint tenants or as equal tenants in common, there is no change in ownership.

~~(E)~~ Example 5: A transfer of real property from Corporation X to its sole shareholder A. No change in ownership, even if A is an "original co-owner", because interests in real property, and not ownership interests in a legal entity, are being transferred.

**(c) TRANSFERS OF OWNERSHIP INTERESTS IN LEGAL ENTITIES:**  
~~Except as is otherwise provided in subdivision (d), the~~ General Rule. The purchase or transfer of corporate stock, partnership ~~shares~~ interests, or ownership interests in other legal entities is not a change in ownership of the real property of the legal entity, pursuant to Section 64(a) of the Revenue and Taxation Code.

**(d) EXCEPTIONS.** The following transfers constitute changes in ownership:

**(1) Control.** When any corporation, partnership, limited liability company, Massachusetts business trust or similar trust, other legal entity, or any person:

(A) obtains through a reorganization or any transfer, direct or indirect ownership or control of more than 50 percent of the voting stock in any corporation which is not a member of the same affiliated group of corporations as described in (b)(1), or

(B) obtains through multi-tiering, reorganization, or any transfer direct or indirect ownership of more than 50 percent of the total interest in ~~both~~ partnership capital and more than 50 percent of the total interest in partnership profits, or

(C) obtains through any transfer direct or indirect ownership ~~or control~~ of more than 50 percent of the total ownership interest in any other legal entity.

Upon the acquisition of such direct or indirect ownership or control, which may include any purchase or transfer of 50 percent or less of the ownership interest through which control or a majority ownership interest is obtained, all of the property owned directly or indirectly by the acquired legal entity is deemed to have undergone a change in ownership.

~~(2) When real property transferred to a corporation, partnership, or other legal entity is excluded from change in ownership pursuant to (b)(2) and the "original co-owners" subsequently transfer in one or more transactions, more than 50 percent of the total control or ownership interests in the entity as defined in (d)(1). For purposes of determining whether more than 50 percent of the total control or ownership interests in the entity has been transferred, transfers of such interests by the "original co-owners" shall be cumulated beginning with the time of the first ownership interest transfer.~~

~~Such a change in ownership requires the reappraisal of the same percentage of the legal entity's real property as the percentage of the ownership interest in the legal entity transferred by the "original co-owners".~~

~~For purposes of this subdivision, persons holding ownership interests in the legal entity immediately following the reappraisal shall be considered the new "original co-owners".~~

(2) Transfers of More than 50 Percent. When on or after March 1, 1975, real property is transferred to a partnership, corporation, limited liability company, or other legal entity and the transfer is excluded from change in ownership under Section 62(a)(2) of the Revenue and Taxation Code, and the "original co-owners" subsequently transfer, in one or more transactions, cumulatively more than 50 percent of the total control or ownership interests, as defined in subdivision (d)(1), in that partnership, corporation, limited liability company or legal entity, there is a change in ownership of only that property owned by the entity which was previously excluded under Section 62(a)(2). However, when such transfer would also result in a change in control under Section 64(c) of the Revenue and Taxation Code, then reappraisal of the property owned by the corporation; partnership, limited liability company, or other legal entity shall be pursuant to Section 64(c) rather than Section 64(d).

For purposes of this subdivision ((d)(2)), interspousal transfers excluded under Section 63 of the Revenue and

Taxation Code, transfers into qualifying trusts excluded under Section 62(d) of the Revenue and Taxation Code, and proportional transfers excluded under Section 62(a)(2) of the Revenue and Taxation Code shall not be cumulated or counted to determine a change in ownership.

Examples of Transfers of Interests in Legal Entities:

Example 6: A and B each own 50 percent of the stock of Corporation X. Corporation X acquires Whiteacre from Corporation Y, an unaffiliated corporation in which neither A nor B has interests, and Whiteacre is reappraised upon acquisition. A transfers 30 percent of Corporation X's stock to C, and B later transfers 25 percent of Corporation X's stock to C. Upon C's acquisition of 55 percent of Corporation X's stock, there is a change in control of Corporation X under Section 64(c) and a reappraisal of Whiteacre.

Example 7: A and B, hold equal interests as tenants in common in Greenacre, a parcel of real property. A and B transfer Greenacre to Corporation Y and in exchange A and B each receive 50 percent of the corporate stock. No change in ownership pursuant to Section 62(a)(2). Pursuant to Section 64(d), A and B become original coowners. A transfers 30 percent of Corporation Y's stock to C (A's child), and B then transfers 25 percent of Corporation Y's stock to D (B's grandchild). Change in ownership of Greenacre upon B's transfer to D. Parent/child and grandparent/grandchild exclusions are not applicable to transfers of interests in legal entities. However, if the same transfers were made by A and B to their respective spouses, no change in ownership pursuant to Section 63 and Rule 462.220.

(3) Cooperative Housing Corporation. When the stock transferred in a cooperative housing corporation, ~~as defined in Section 17265 of the Revenue and Taxation Code,~~ as defined in Section 34605 of the Health and Safety Code, conveys the exclusive right to occupancy of all or part of the corporate property, unless:

(A) the cooperative was financed under one mortgage which was insured under Sections 213, 221(d)(3), 221(d)(4), or 236 of the National Housing Act, as amended, or was financed or assisted pursuant to Sections 514, 515, or 516 of the Housing Act of 1949, or Section 202 of the Housing



Act of 1959, or was financed by a direct loan from the California Housing Finance Agency, and,

(B) the regulatory and occupancy agreements were approved by the respective insuring or lending agency, and

(C) the transfer is from the housing cooperative to a person or family qualifying for purchase by reason of limited income.

(4) Proportional Interest Transfers. Transfers of stock, partnership interests, limited liability company interests, or any other interests in legal entities between legal entities or by an individual to a legal entity (or vice versa) which result solely in a change in the method of holding title and in which proportional ownership interests of the transferors and transferees, in each and every piece of property represented by the interests transferred, remain the same after the transfer, do not constitute changes in ownership, as provided in subdivision (b)(2) of this rule and Section 62(a)(2) of the Revenue and Taxation Code. This provision shall not apply to a statutory conversion or statutory merger of a partnership into a limited liability company or other partnership (or a limited liability company into a partnership) when the law of the jurisdiction of the converted or surviving entity provides that such entity remains the same entity or succeeds to the assets of the converting or disappearing entity without other act or transfer and the partners or members of the converting or disappearing entity maintain the same ownership interest in profits and capital of the converted or surviving entity that they held in the converting or disappearing entity.

Examples of Excluded Proportional Interest Transfers:

Example 8: General Partnership (GP), which owns Whiteacre and in which A and B hold equal partnership interests, converts to Limited Partnership (LP) under the Revised Uniform Partnership Act of 1994 (California Corporations Code section 16100 et seq.). As a result of the conversion, A and B each hold 50 percent of the LP interests in capital and profits. No change in ownership of Whiteacre upon the conversion, because, under Section 16909 of the Corporations Code, there is no transfer of Whiteacre. Section 62(a)(2) of the Revenue and Taxation Code does not apply. However, if A and B were "original coowners" in GP, they remain "original coowners" in LP.

Example 9: Following the conversion in Example 8, A and B each transfer 30 percent of their capital and profits interests in LP to Limited Liability Company (LLC), which is owned equally by A and B. Each retain an equal 20 percent interest in LP. No change in ownership of Whiteacre pursuant to Section 62(a)(2) because A and B own 100 percent of both LP and LLC and their respective proportional interests remain the same after the transfer. Neither section 64(c) nor section 64(d) of the Revenue and Taxation Code applies to this transfer, although A and B become "original coowners" with respect to their interests in LLC.

Example 10: A limited partnership (LP), which owns Blackacre and in which C and D hold equal partnership interests, changes its form to a limited liability company (LLC), in which C and D hold equal membership interests, by statutory merger under the California Revised Limited Partnership Act (California Corporations Code section 15611 et seq.) and the Beverly-Killea Limited Liability Company Act (California Corporations Code section 17000 et seq.). No change in ownership of Blackacre upon the change in form because under section 17554 of the California Corporations Code, there is not a transfer of property from LP to LLC. Section 62(a)(2) of the Revenue and Taxation Code does not apply. However, if C and D were "original coowners" in LP, they remain "original coowners" in LLC.

**(e) PARTNERSHIPS.**

(1) Transfers of Real Property by Partnerships. General Rule. Except as provided in by (b)(2), where the proportional ownership interests remain the same, when real property is contributed to a partnership or is acquired, by purchase or otherwise, by the partnership, there is a change in ownership of such real property, regardless of whether the title to the property is held in the name of the partnership or in the name of the ~~partner(s)~~ partners with or without reference to the partnership. Except as provided by (b)(2), where the proportional ownership interests remain the same, the transfer of any interest in real property by a partnership to a partner or any other person or entity constitutes a change in ownership.

(2) Except as provided in (d)(1)(B) and (d)(2), the addition or deletion of partners in a continuing partnership does not constitute a change in ownership of partnership property.

Note: Authority: Section 15606, Government Code.

Reference: Sections 60, 61, 62, 63, 64, and 67, Revenue and  
Taxation Code; Sections 16909 and 17554, Corporations Code;  
Section 34605, Health and Safety Code.